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TAGS: PHUM PREF PTER MARR KJUS CO

SUBJECT: COLOMBIAN MILITARY MAKES PROGRESS ON HUMAN RIGHTS
AND EXTRAJUDICIAL KILLINGS

REF: BOGOTA 542

Classified By: Political Counselor John S. Creamer
Reason 1.4 (b and d)

SUMMARY:

¶1. (U) The Defense Ministry and Armed Forces are making progress in implementing the fifteen measures announced by Defense Minister Santos in November 2008, to improve the military's human rights record and eliminate extrajudicial killings. The Ministry and the local UN High Commission on Human Rights office (UNHCHR) said that to date, they have received no new reports of extrajudicial killings committed by security forces after October 31, 2008. Still, the International Committee of the Red Cross (ICRC) reports that killings continue, albeit in smaller numbers. UNHCHR officials caution that many of the fifteen measures have yet to be implemented at the operational level, and warn that some senior military officers oppose the reforms. UNHCHR said continued high-level leadership on these issues will be required to achieve lasting change in Colombia's military culture--making the choice of the next Defense Minister crucial. End Summary

THE 15 MEASURES:

¶2. (U) On November 17 2008, Defense Minister Juan Manuel Santos announced fifteen measures to improve the Armed Force's human rights performance and eliminate extrajudicial killings. The announcement followed recommendations by the special commission--appointed by Santos and led by Major General Carlos Suarez--which investigated the Soacha killings. The Suarez Commission found numerous errors in the verification and implementation of intelligence, operations, and logistics procedures used for the planning, execution and evaluation of military operations. The Commission said these breakdowns reflected a lack of control and oversight by commanders and contributed to the extrajudicial murders. As a result, President Uribe dismissed 27 officers and enlisted men on October 27.

THERE IS PROGRESS:

¶3. (U) After Santos' announcement of the 15 measures, the Ministry of Defense (MOD) issued Directive 208, which defined the roles and responsibilities of military personnel under Human Rights and the International Humanitarian Law (IHL). The directive imparted specific instructions for the implementation of the measures--from the strategic to the tactical levels--and outlined the measures in eleven major objectives or "decisions." As of February, the status on the implementation of these decisions--as reported by the MOD's Human Rights Division--is as follows:

¶A. (U) Application of Doctrine (Measures 1-2): The Colombian Congress approved Law 1288 on March 5, which establishes a formal legal framework for intelligence and counterintelligence operations. The Ministry has already introduced the law to military personnel through training for several armed forces intelligence units.

¶B. (U) Revision of Human Rights Instruction (Measures 3-5): The MOD created Army, Air Force and Judicial Human Rights Directorates (Jefaturas). MOD has also signed an agreement with the "Superior School of Public Administration"--a graduate-level public school--to develop a six-level Human Rights Education Model which will be used in the training and certification of security forces members of all ranks.

¶C. (U) Immediate Inspection Commission (CII) (Measure 6): The CIIs--which are modeled on the Suarez Commission--are functioning. Under Directive 208, the CIIs can be activated by the Joint Command (Comando General) or individual Service Chiefs (Air Force, Army, etc.). The CIIs are housed in the

Armed Forces Inspector General (IG) and the respective service IGs; with the CII conducting the investigation determined by the requesting authority (Joint Command or an individual service). The IG reports directly to the Minister of Defense, through Armed Forces Commander General Fredy Padilla. CIIs include operations, intelligence, and logistics experts and are charged with evaluating operations where there are allegations of violation of Human Rights or IHL.

¶D. (U) Inspector Delegates (Measure 7): This measure calls for the strengthening of the role of the inspector delegates. These officers--at the rank of Colonel or Navy Captain--will report directly to the IG and are to focus exclusively on investigating Human Rights and IHL violations. The MOD is working on a document to further clarify the roles and responsibilities of the Inspector Delegates.

¶E. (U) Operational Legal Advisors (Measure 8): The MOD has trained 100 Operational Legal Advisors (OLAs). These OLAs fill tactical level positions (battalion-level), giving higher priority to those units with the highest operations tempo or those which have had human rights violations in the past. Some brigades and battalions already have such advisors and continue to be manned as more OLAs are trained and certified. These advisors report to the unit's commander and will provide legal advice for the planning and execution of military operations. They received human rights training 6-21 February.

¶F. (U) Authorization of Military Objectives (Measures 9-10): On 4 February, Minister Santos announced that each member of the Armed Forces and National Police will receive an Operational Law Manual. MOD is working on a draft of this document which is still pending National Police input and MOD approval.

¶G. (U) Mission Performance Evaluation (Measure 11): The MOD has instructed commanders to take into account Directive 300-28 of November 20, 2007, which emphasizes the collective and individual demobilization of members of illegal groups, instead of enemies killed, as a measure of the success of military operations. To facilitate implementation, the Joint Command (Comando General) has developed a Balance Score Card system to evaluate mission effectiveness, including captures,

demobilizations, and an assessment of pre-mission intelligence and planning. The MOD has not formally changed the officer/enlisted evaluation and promotion system, but has insisted that Directive 300-28's preference for captures over kills ("bajas") be a factor in the promotion process. In addition, Directive 142 of May, 2008 changed the criteria for nomination of awards for military action by favoring captures instead of kills.

IH. (U) Rules of Engagement (Measure 12): In a joint USSOUTHCOM/Colombian Army effort in January, the MOD called for development of two sets of rules of engagement (ROEs). One set will regulate the use of force against legitimate military targets and will authorize lethal force as a first option. The second will regulate the use of force in law enforcement situations and will allow lethal force only as a last resort. The MOD expects these ROEs to be approved during the next the Service Chiefs meeting. All 100 Operational Legal Advisors received ROE training in Tolemaida, February 6-21. The Prosecutor General's Office (Fiscalia) also sent members of its Technical Investigative Team (Cuerpo Tecnico de Investigaciones-CTI) to participate both as trainers and trainees.

II. (U) Human Rights Certification Program (Measure 13): This program is already in effect and mandates that all candidates for promotion to the rank of Lieutenant Colonel and above obtain Human Rights and IHL certification based on polygraph assessment and thorough verification of the individual's operational history.

IJ. (U) Judicial Police Involvement (Measure 14): This measure stems from Directive 19 of 2007 and requires that the Fiscalia's CTI be the first responders in situations where

there is a possible homicide of a protected person--as defined by Directive 10 of 2007, and IHL--during military operations. In these cases, the CTI will be in charge of the investigation and collection of evidence per article 205 of the Colombian Criminal Code. The MOD reports that it has set up mechanisms to assist in the transportation of CTI members to the scene when needed.

IK. (U) Human Rights Violation Reporting (Measure 15): Minister Santos has held five televised public meetings to explain the progress of the MOD's Human Rights efforts. Others will take place during 2009 by presidential order. Minister Santos highlighted the GOC commitment to Human Rights during a Human Rights symposium on February 10. More than 1,400 Army officers and enlisted were present.

14. (SBU) MOD Human Rights director Colonel Juan Carlos Gomez told that us his office has officially requested that General Padilla provide a status report on the implementation of the fifteen measures for each of the seven geographic commands. Padilla's office is in the process of drafting their response.

MOD AND UNHCHR SAY "NO NEW CASES":

15. (U) The MOD and the United Nations High Commission on Human Rights (UNHCHR) office in Bogota said that to date, they have not received any reports of extrajudicial killings committed by security forces members that occurred after October 31, 2008. Colonel Gomez claimed that reports of extrajudicial killings peaked in 2007, and have declined since. Fiscalia data showed a peak in 2007 (366 cases) with a marked decrease in 2008 (81 cases). The Fiscalia reported a total of 914 cases from the period 1985-2008, reflecting 1,472 victims. Of these, 593 were being prosecuted under Law 600 (old inquisitorial system), and the remaining 321 cases under Law 906 (new accusatory system). The Fiscalia has so far obtained convictions of 63 military personnel (46 Army) in 14 extrajudicial killings cases.

BUT SOME HUMAN RIGHTS GROUPS DISPUTE THAT NOTION:

¶ 6. (C) Local International Committee of the Red Cross (ICRC) delegate Christophe Beney told us he sees some improvement by the Colombian military in reducing extrajudicial killings, but indicated the ICRC has received reports of new murders since October. He said MOD's previous body-count policies created incentives for some extrajudicial killings, but noted that these were not the only cause. Beney said some Colombian military units continued to kill some suspected FARC sympathizers when they lacked evidence needed to detain and prosecute them. Local human rights groups also questioned whether the military has reduced extrajudicial killings, but UNHCHR's Jesus Pena said human rights groups' data confirmed a peak in 2007.

ALL AGREE STILL TOO EARLY TO CLAIM SUCCESS:

¶ 7. (C) Pena agreed the Colombian military is making progress in overcoming the extrajudicial killing issue, and said the MOD's policy changes will benefit Colombia's human rights record in the long run. Still, he cautioned that it is too early to assess the effectiveness of the measures, noting that many have yet to be fully implemented at the operational and tactical levels. Pena recognized Santos' commitment to address human rights issues but warned that many senior Army officers oppose the reforms. He voiced concern that with Minister Santos likely to resign soon to run for president, the MOD would lose the strong leadership needed to make further progress on human rights. Uribe's choice of Santos' replacement would be key in this regard.

¶ 8. (C) Pena said the MOD and Armed Forces need to do more to change the human rights culture within the military, including publicizing Santos' changes and highlighting their effectiveness. He cited a case in which--after 12 hours of negotiations--an Army Lieutenant convinced three former

paramilitaries to demobilize after they had taken refuge in a house. There were no shots fired and no casualties. Pena said the MOD failed to showcase this event, losing an "incredible opportunity" to show the benefits of the new approach.

¶ 9. (C) Colonel Gomez praised the work done with USSOUTHCOM to develop new ROEs, because it allowed commanders in the field to participate in their development and validation. He stressed that changing military culture while simultaneously conducting combat operations is very difficult. Applying changes at the tactical level will take time. Still, Gomez voiced confidence that the reforms will take hold with the new generation of military professionals and claimed the current level of Human Rights and IHL compliance is "high."

¶ 10. (C) In a human rights roundtable with MOD officials and military officers March 5, the Chairman of the Joint Chiefs, Admiral Michael G. Mullen, warned that the Colombian military has not solved its human rights issues, and urged the military to incorporate human rights criteria in its promotion process.

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